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October 16, 2017

VIA ELECTRONIC & US MAIL

Ms. Jennifer LaPoma
ATTN: Lower Passaic River Remedial Project Manager
Emergency and Remedial Response Division
U.S. EPA, Region 2
290 Broadway, 19th Floor
New York, New York 10007

**Re: Monthly Progress Report No. 125 – September 2017
Lower Passaic River Study Area (LPRSA) Remedial Investigation/Feasibility Study
(RI/FS)
CERCLA Docket No. 02-2007-2009**

Dear Ms. LaPoma:

de maximis, inc. is submitting this Monthly Progress Report for the above-captioned project on the behalf of the RI/FS Agreement Settling Parties (Cooperative Parties Group or CPG) pursuant to the Administrative Settlement Agreement and Order on Consent (Settlement Agreement or AOC). The Progress Report satisfies the reporting requirements of Paragraph 42 of said Settlement Agreement. The CPG has revised this Progress Report to address the Region's direction in its September 1, 2015 letter about Section (d).

(a) Actions which have been taken to comply with this Settlement Agreement during the previous month.

Meetings/Conference Calls

- On September 11, EPA Region 2 (Region 2) and CPG met to continue discussion of CPG's Upper 9-mile Plan.
- On September 14, Region 2 and CPG held a conference call as a follow-up to the September 11 meeting regarding CPG's Upper 9-mile Plan.
- On September 27, Region 2 and CPG held a conference call to discuss Region 2's comments on CPG's Toxicity Reference Values (TRVs) in the revised Draft 17-mile Baseline Ecological Risk Assessment (BERA).

Correspondence

- On September 5, CPG and Region 2 exchanged emails regarding attendees and start time for the September 11 meeting to continue discussions of CPG's Upper 9-mile Plan.

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- On September 6, Region 2 notified CPG that the Region 2 Remedial Project Manager (RPM) would be deployed for two weeks for Hurricane Irma response and that Michael Sivak would be handling all LPRSA matters in her absence.
- On September 7, Region 2 requested an agenda for the scheduled September 11 meeting to continue discussions of CPG's Upper 9-mile Plan.
- On September 8, CPG provided a proposed agenda for the scheduled September 11 meeting to Region 2.
- On September 10 and 11 Region 2 and CPG exchanged emails regarding Region 2's request for a road map/crosswalk document for the Draft 17-mile Remedial Investigation (RI) Report Section 4 reach-by-reach evaluation submitted on August 31, 2017.
- On September 12, CPG requested an update on when the remaining Region 2 comments on the July 24, 2017 BERA action items would be provided by Region 2
- On September 12, CPG provided Region 2 revised Hydrodynamic, Sediment Transport (HST) and Organic Carbon (OC) model codes/inputs/outputs for the LPR/Newark Bay model.
- On September 12, CPG responded to Region 2's August 29 email regarding the status of Agency responses on the RI Upstream Reference Benthic Data Report and the Background Sediment Data Report.
- On September 13, CPG submitted a roadmap/crosswalk document connecting the locations of responses in the Reach-by-Reach Analysis to the locations in the Draft 17-mile RI report comments to Region 2.
- On September 14, Region 2 provided CPG a tabulation of CFT model results requested by CPG.
- On September 15, CPG delivered the August Monthly Progress Report to Region 2
- On September 18, Region 2 provided responses to the July 24, 2017 BERA Meeting Action Items to CPG.
- On September 19, Region 2 requested a detailed description of how the lead and zinc Biotic Ligand Model (BLM) values in the Draft 17-mile BERA were developed from CPG.
- On September 25, CPG provided a spreadsheet to Region 2 with hypothetical recovery calculations reviewed during the September 11 Upper 9-Mile Plan meeting.
- On September 27, Region 2 provided a paper on dieldrin following the September 27 conference call regarding CPG's TRVs in the revised Draft 17-mile BERA.
- On September 29, Region 2 and CPG exchanged emails regarding preparations for an October 4, 2017 meeting to continue discussion of CPG's Upper 9-mile Plan.

Work

- CPG continued to work on addressing to Region 2's comments on the revised Draft 17-mile RI Report and Model Appendices.
- CPG continued work on calibration of the revised LPR/Newark Bay CFT model.
- CPG continued work to address Region 2's June 30 comments on the revised Draft 17-mile BERA.

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- CPG continued work on preliminary identification and evaluation of Upper 9-mile remedial alternatives.
- CPG responded to Region 2 comments and questions on the Upper 9-mile Plan.

(b) Results of Sampling and Tests

- None.

(c) Work planned for the next two months with schedules relating to the overall project schedule for RI/FS completion

- CPG will continue work on the revised Draft 17-mile RI Report and Model Appendices in response to Region 2 comments with an anticipated delivery in late December 2017.
- CPG will continue calibration of the revised LPR/Newark Bay CFT model and continue to work with HDR to complete the calibration.
- CPG will continue to revise the Draft 17-mile BERA to address the ongoing Region 2 responses from the July 24 meeting with an anticipated delivery in December 2017.
- CPG will continue preliminary identifications of remedial alternatives for the upper 9-miles.

(d) Problems encountered and anticipated problems, actual or anticipated delays, and solutions developed and implemented to address actual or anticipated problems or delays.

The CPG has agreed to retain only near-term problems and concerns in the monthly reports moving forward pursuant to the direction in Region 2's September 1, 2015 letter; however, previous Progress Reports through July 2015 document in Section (d) significant issues and matters largely the result of actions and decisions by the Region and its Partner Agencies that have significantly delayed and complicated the completion of the 17-mile RI/FS. The removal of this previous information does not in any way lessen its impact on the completion of the 17-mile RI/FS.

- **Remedial Investigation (RI) Report** – The CPG submitted the Draft 17-mile RI Report over one year ago on February 18, 2015. The CPG inquired about the status of the draft 17-mile RI Report during the February 17, 2016 COPC Mapping meeting and Region 2 was unable to provide a definitive date to deliver comments on the draft report. Region 2 provided 618 comments on the Draft 17-mile RI Report and LPRSA Models on April 14, 2016. The extended delay by the Region in providing the comments was beyond the control of the CPG and will further delay the completion of the 17-mile RI/FS. The Region and the CPG are in the process of comment review and resolution and provide preliminary responses to comments within 60 days as directed by the Region in its July 14, 2016 email. The CPG delivered responses to Region 2 non-modeling Draft RI Report comments on September 13, 2016. The CPG delivered responses to the EPA's RI Report modeling comments on February 9, 2017. The CPG received EPA's evaluation of the CPG's September 2016 responses to comments on April 26. The July 26 teleconference identified outstanding comments

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and potential resolution. The CPG delivered a draft of RI Report Section 4 - Reach-by-Reach Analysis for the Upper 9-Mile Plan to EPA on August 31. The CPG will continue revisions to the Draft 17-mile RI Report.

- **Feasibility Study (FS)** – The CPG delivered the Draft FS over 2 years ago on April 30, 2015. The Region stated in its August 4, 2016 RAO/PRG Technical Memorandum comments it has decided not to provide comments on the Draft FS. In addition, Region 2 provided comments on the Draft RAO/PRG Technical Memorandum (submitted on March 27, 2015), Draft Alternatives Screening Technical Memorandum (submitted on April 16 and 21, 2015) and the Draft Alternatives Evaluation Technical Memorandum (submitted on April 26, 2015). Region 2 provided comments on August 4, 2016 after more than 16 months for the RAO/PRG Technical Memorandum and informed the CPG that comments on the remaining two Technical Memoranda will be provided by the end of September. The CPG provided a preliminary response to comments to the Region's RAO/PRG Technical Memorandum comments on September 6. Region 2 provided comments on the Draft Alternative Screening Technical Memorandum and the Draft Alternatives Evaluation Technical Memorandum on September 29, 2016 – 17 months after delivery of the memoranda. The CPG prepared and delivered responses on December 2, 2016 as directed by Region 2. The extended delay by the Region in providing the comments on the FS technical memoranda is beyond the control of the CPG and will further delay the completion of the 17-mile RI/FS. The CPG provided two suggested streamlining options to Region 2 on March 10, 2017 and offered a series of collaboration meetings to support this approach. Region 2 and the CPG are currently discussing refocus of the FS to the Upper 9-miles and accelerating its completion.
- **Baseline Ecological Risk Assessment (BERA)** - The CPG submitted the Draft 17-mile BERA on June 13, 2014 and the Region provided comments on May 1, 2015. The CPG and the Region conducted several teleconferences and exchanged correspondence throughout May and July 2015. The last teleconference was conducted on July 29, 2015, during which the Region requested the CPG provide a list of action items. The action items were provided on July 30 and included three items for Region 2 and one item for the CPG that required the Region's input. The Region provided its response to these two of these action items on December 22. The CPG provided Draft 17-mile BERA responses to comments (RTCs) on September 11, 2015 and additional material on September 15, 2015; the Region stated in its July 20, 2015 letter that it would provide its responses in 30 days – Region 2's responses were received in part on December 22, 2015 – more than two months later than promised. The Region provided the remaining material on January 5, 2016. The Region and CPG conducted a teleconference to clarify a number of issues on January 13, 2016. The CPG received additional Mullica River and Great Bay reference data from the Region 2 on June 7, 2016 which was heretofore not available to the CPG which addresses the CPG's concerns about this reference data set. The Region provided further statements on June 20, 2016 with respect to common carp that did not resolve

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the inconsistent comments and previous statements by the Region (Dec. 2015 BERA Comment 3 Response and RI Comment 179). The Region and CPG communicated via emails, a July 6, 2016 telephone call and the CPG's July 18, 2016 letter to the Region discussing the revised Draft 17-mile BERA schedule and outstanding issues. As discussed in CPG's July 11, 2016 email and July 18, 2016 letter, the CPG anticipates that it will take until October 1, 2016 to deliver a revised Draft 17-mile BERA based on the extensive changes that the Region has directed, delays in providing the additional reference data and assuming the remaining matter of common carp in the Draft 17-mile BERA are quickly resolved. The Region agreed to an October 1 (actual delivery will be on October 3 since October 1 is a Saturday) delivery date in its August 4, 2016 letter. The CPG delivered a set of clarifications regarding the Draft 17-mile BERA on September 12, 2016 and received responses from the Region on September 27, 2016; the CPG disagrees with the Region's contention that these were previously resolved by earlier communications. Thereafter, on October 3, 2016, Region 2 refused a CPG request for a brief extension for the delivery of the revised Draft 17-mile BERA. The revised Draft BERA was submitted on October 7, 2016. A transmittal letter detailing a number of the CPG's significant disagreements with the directives imposed by the Region was delivered to the Region's LPR SharePoint on October 19, 2016. Region 2 requested that the CPG provide a hardcopy of the October 2016 revised Draft 17-mile BERA to the NJDEP on December 8, 2016 – two months after the revised Draft BERA was posted the Region's LPR SharePoint on October 7, 2016. The Region provided comments on the October 2016 version of the revised Draft 17-mile BERA on June 30, 2017. Region 2 and CPG met on July 24 to discuss the BERA comments and developed an Action Item list to facilitate the revision which EPA continues to provide responses. Assuming the EPA provides the remaining responses in a timely manner, then the anticipated delivery of a revised 17-mile BERA is in December 2017.

- **Other Documents** - There are number of reports and technical memos (both original and revised submissions) that have been submitted to Region since 2011 that the CPG is awaiting either approval or Region 2's comments. These reports include:

1. Upstream Reference Benthic Data Report – submitted August 2013
2. Background Sediment Data Report – submitted October 2013

The CPG has received the Region's comments on a number of previously submitted data reports and revised and re-submitted them in November 2015. Please advise the CPG of the Region 2's schedule for action on these remaining documents. The CPG would like to discuss the EPA's August 29 email on these reports. It is unclear why EPA would not either (1) approve these data summary reports as it has for numerous other similar reports or (2) provide comments for the CPG to address and revise these two reports for final approval.

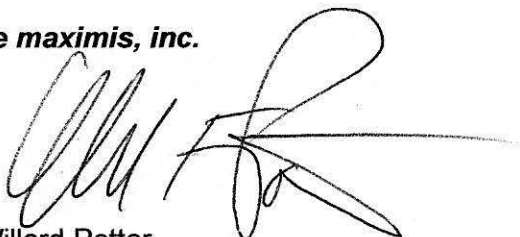
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- **17-mile RI/FS Schedule – The** CPG plans to deliver the revised RI Report in December 2017 and is working with the EPA to refocus the FS on the Upper 9 miles and accelerate its completion.

If you have any questions, please contact Rob Law or me at (908) 735-9315.

Very truly yours,

de maximis, inc.



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CPG Project Coordinator

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